

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X

In re:

Chapter 7

Dia M Catania,

Case No.: 20-70768-las

Debtor(s).

-----X

AFFIRMATION IN OPPOSITION

Richard F. Artura, Esq., an attorney duly admitted to practice law before the Courts of the State of New York, affirms the following under the penalty of perjury:

1. I am a member of the firm of Phillips, Artura & Cox Esqs., attorneys for the debtor, and as such I am fully familiar with the facts and circumstances surrounding the within matter.

2. This is in opposition to the Trustee's Objection to Debtor's Claim of Exemptions returnable May 19, 2020 at 10:00 am.

3. The debtor purchased a home at 214 Whittier Drive, Mastic Beach, New York on July 19, 2016 and moved in with her then boyfriend, Frank Brusack, Jr.

4. Debtor testified at the 341 Meeting that soon after the purchase she and Frank Brusack, Jr. had personal issues and they needed to separate. As she could not afford the home on her own and needed a home for her dogs, she agreed to transfer the house to Frank Brusack, Jr. He in turn agreed to pay off her mortgage which was substantially less than the value of the home.

5. As fully disclosed in her schedules, on January 31, 2019, debtor transferred the home to her now estranged boyfriend Frank Brusack, Jr. for inadequate consideration.¹ The debtor now lives with her mother.

6. Debtor filed this Chapter 7 on February 4, 2019 and availed herself of the “wildcard” exemption under 11 U.S.C. §522(d)(5) in the amount of \$13,100 thereby exempting her equitable interest in the house for that amount.

7. The trustee timely objected to the claim.

8. Debtor contends that the exemption at issue is valid and that as a matter of law the Trustee’s objections must be overruled.

9. See attached Memorandum of Law

WHEREFORE, debtor request a finding that the Trustee’s objection to debtor’s exemption under 11 U.S.C. 522(d)(5) against her equitable interest in 214 Whittier Drive, Mastic Beach, New York be overruled and for such other and further relief as this Court deems just and proper.

Dated: May 12, 2020
Lindenhurst, New York

S/Richard F. Artura, Esq.
Richard F. Artura, Esq.
Phillips, Artura & Cox
Attorneys for Debtor
165 South Wellwood Avenue
Lindenhurst, NY 11757
631-226-2100
Bankruptcy@pwqlaw.com

¹ There is a question on Mr. Brusack’s proper recording of the deed and the matter is under investigation.

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

In re

CHAPTER 7

Dia M Catania,

Case No.: 20-70768-las

Debtor(s).

AFFIRMATION IN OPPOSITION

PHILLIPS, ARTURA & COX

Attorneys for Debtor(s)

165 South Wellwood Avenue

Lindenhurst, NY 11757

Service of a copy of the within is hereby admitted.

Dated: _____

Attorney(s) for

SIR: PLEASE TAKE NOTICE

[] NOTICE OF ENTRY: that the within is a (certified) true copy of a _____ duly entered in the office of the clerk of the within named court on _____

[] NOTICE OF SETTLEMENT: that an order _____ of which the within is a true copy will be presented for settlement to the HON. _____ one of the judges of the within court, at _____ on _____ at _____

Certified pursuant to 22 NYCRR Part 130-1.1-a

Dated:

Yours, etc.,

TO:

BY: Richard F. Artura, Esq.

Phillips, Artura & Cox

165 South Wellwood Avenue

Lindenhurst, NY 11757

(631) 226-2100

Attorney(s) for: